

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
[NORTHERN DIVISION]

RECEIVED

Frederick Jackson #214603,
Pro/Se Plaintiff

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THOMAS J. JACKSON
CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

-Vs-

Case No.2:06-CV-478-WHA

Howard Robinson,et.al.,
Defendant(s)

PLAINTIFFS RESPONSE TO DEFENDANTS ANSWER & REPORT

Comes now, Frederick Jackson, Pro/Se, And from herein known as the Plaintiff, And submits his response to the defendants Answer and Report in the above styled cause, And in Support thereof, The Plaintiff shows the following:

1.) The defendants have raised (12) Twelve Defenses to the Plaintiffs U.S.C.S. §1983 Civil Complaint, Alleging a Violation of his constitutional Rights, Specifically, His 8th Amendment right to be free from Cruel and Unusual Punishment.

2.) This Plaintiff specifically argued that the Defendants callous disregard for his rights lead to this Plaintiffs Hand getting caught in a Machine at the Elmore Recycle Center.

3.) This Plaintiff contends that the very same defenses were raised by the Defendants in :**Brian Dodd vs. Howard Robinson, CV-03-F-571-N(M.D. Ala. 2004)**, Which was settled after the Plaintiff Proved that the very same defendant named above was deliberately Indifferent to his safety.

4.) This Plaintiff contends that his Exhibit 'A', The Unsworn Declaration of the Plaintiff, Specifically refutes the Defendants

contentions that this plaintiff was at fault for the Injury,
And also refutes the Defendants allegations that they "Checked"
the machine to investigate whether or not the Guard was still
in Place.[Pg.#4] Defendants Answer and Special Report

5.) This Plaintiff further argues that The "Off Limits" area
that the defendants claim this Plaintiff was in,Is contrary to
what the Defendants Ordered this Plaintiff to do.[See;Unsworn
Declaration of the Plaintiff]

6.) This Plaintiff further contends that the defendants can not
seem to make up there mind,Whether or not they agree the "Guard"
was in fact on the Machine,Pg.#7,Defend.Argument,Contrary to their
Affidavit's.

7.) The Plaintiff argues,That "It is well settled that "[w]hen prison
officials intentionally place prisoners in dangerous surroundings,or
when they are 'Deliberately Indifferent' either to prisoner's health
or safety,They violate the [Eighth amendment]to the U.S. Constitution."
Cortes-Quinones v.Jimenez-Nettleship,842 F.2d.556,558(1st Cir.),cert.
Denied,488 U.S. 823,109 S.Ct.68,102 L.ed.2d.45((1988)).
The courts have held,"[t]here are circumstances in which prison work
requirements constitute cruel and unusual punishment."**Johnson v.**
Clinton,763 F.2d.326,328(8th Cir.1985)

8.) This plaintiff was given (2) Two choices,Either Work near the
Machine with the Guard off,Or recieve a Disciplinary for refusing
to work,The defendants not caring about whether the guard was on
the machine or not,Displays Deliberate Indifference towards the safety
of this Plaintiff.

"[F]or prison officials knowingly to compel convicts to perform
physical labor.....which constitutes a danger to their health,or
which is unduly painful constitutes an infliction of cruel and un-
usual punishment prohibited by the Eighth Amendment....."**Johnson v.**
Clinton,763 F.2d. at 328 (Quoting **:Ray v.Mabry**,556 F.2d.881,882(8th
Cir.1977))(per curiam).

Certain "Acts or ommissions [are] so dangerous (in respect to health
or safety) that knowledge of the risk can be inferred."**Cortes-**

Quinones v. Jimenez-Nettleship, 842 F.2d. at 558.

9.) Finally, The defendants seem to believe that because they were ""Supervisors"" over the Recycle Center, That they are not responsible for said Recycle Center, "However, Supervisors can be liable for their personal involvement in a constitutional violation, or, "When their corrective inaction amounts to 'Deliberate Indifference' to or 'Tacit Authorization' of the violative practices." **Williams v. Willits**, 853 F.2d. 586, 588 (8Th Cir. 1988).

The defendants, Specifically ordered this plaintiff to work in the area where his Hand got caught in a Machine, The defendants knew or should have known that the guard was broken off the machine, And it would be to dangerous for an inmate to work around that machine, However, The defendants disregarded the dangers, And ordered the Plaintiff to work their anyway.

CONCLUSION

Wherefore, Premises considered, The Plaintiff prays that this court will schedule a hearing on this claim.

The Plaintiff further prays that the court will appoint counsel in the Instant matter, To assist and Guide this Plaintiff in this matter.

The Plaintiff finally prays for any/all further relief that the court deems just and Proper in the Instant case, On this the 6 day of SEPT. 2006.

Respectfully Submitted,

Frederick Jackson
Frederick Jackson, Pro/Se
E.C.F./P.O. Box 8
Elmore, Al. 36025

CERTIFICATE OF SERVICE

This is to certify, That I have served a true and correct copy of the foregoing pleading on;

Alabama Dept. of Corrections
Legal Division
301 South Ripley Street
P.O. Box 301501
Mont. Al. 36130

By placing said copy in the U.S. Mail, On this the 6 day of SEPT 2006.

Frederick Jackson
Frederick Jackson, Pro/Se